

Albania and WTO: Survey on Commitments

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Abbreviations

| | |
|-------------------|---|
| GATS ¹ | General Agreement on Trade in Services |
| GATT | General Agreement on Trade and Tariffs |
| MFN | Most Favored Nation |
| NT | National Treatment |
| WTO | World Trade Organization |
| SPS | Sanitary and Phyto-Sanitary |
| TBT | Technical Barriers to Trade |
| TRIMS | Trade Related Investment Measures |
| TRIPS | Trade Related Aspects of Intellectual Property Rights |
| VKM | Decision of the Council of Ministers |

¹ For many of the acronyms related to WTO, the English acronym has been preserved, because there are not yet largely accepted acronyms in Albanian.

Introduction

The survey on commitment of Albania in WTO framework is a complex exercise, as the complex legal corpus of this institution. In this framework, the approach should be considered as a first attempt - not exhaustive at all - to “inventory” the Albanian commitments. Though a first attempt, the approach claims to make an entire survey on these commitments.

The following survey has been structured in two parts:

- WTO legal structure, and
- Albanian commitments in WTO framework.

The first part serves as a structuring ‘template’ for the next treatment, including the basic text and the annexes. Besides having the function of ‘Ariadnes’ thread, the first part helps to keep a complete view when consulting the material. In this sense, it is suggested that the reader continue should go back to find the place for each detail.

The second part includes a number generalizations concerning the commitments in three basic areas (goods, services, intellectual property). This part of analysis serves for a quick reading and a ‘grosso modo’ discussion. A deeper, more professional and more pragmatic discussion would have as a condition the continuous annexes consultation, where the basic text addresses you. In this sense they should be considered as necessary integral part of the analysis.

In the end, I would prefer to make some suggestions about questions requiring further attention, and a concluding remark is made.

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1. WTO Legal Structure

Legal texts or agreements reached in WTO framework may be divided in 6 main groups²:

- umbrella agreement (WTO foundation agreement);
- agreement for each of the three broad trade fields covered by WTO (goods, services and intellectual property);
- rules for disagreements solution; and
- rules for governments trade policies review.

Agreements for two largest fields - goods and services – are structured according to a triple scheme. This triple contains:

- general principles: General Agreement on Goods Trade (GATT), General Agreement on Trade and Services (GATS), and Trade Aspects of Intellectual Property Rights;
- relevant agreements and annexes (for GATT and GATS), and annexes dealing with sectors or specific questions;
- lists of commitments made by the countries for the markets liberalization. For GATT, commitments take the form of compulsory commitments and tariffs and quotas combinations for some agricultural products. For GATS, commitments show how much access has been given to the services bidders for specific sectors. This means that the countries have the right to deviate from MFN principle. In this case, the countries should show where they will not apply MFN principle³.

Parts of WTO structure are also the disagreements solving institutions and trade policies review which serves to increase the system transparency.

Synthetically, WTO legal structure is like the following table:

WTO basic structure

| Umbrella | Agreements founded by WTO | | |
|--|--|--|-----------------------|
| | Goods | Services | Intellectual property |
| Basic principles | GATT | GATS | TRIPS |
| Additional details | Agreements and annexes related to GATT | Services annexes | |
| Commitments for markets liberalization | Commitments offer | Commitments offer (with exemptions from MFN principle) | |
| Solution of disagreements | Solution of disagreements | | |
| Transparency | Trade policies review | | |

The above structure takes into account only the multilateral agreements, that is, the agreements where all WTO countries should adhere. Meanwhile, a larger sense of WTO structure should include also the multilateral agreements that are open agreements to be accepted.

² In the coming table the groups have been bolded

³ At first, the Uruguay Round dealt more with general principles and the principles for specific sectors. At the same time, negotiations were also held for the liberalization of markets and industrial products. After elaborating the above principles, the negotiations might continue for the agriculture markets and services liberalization.

2. Albanian commitments in WTO framework

Albanian commitments in WTO framework should be considered in three main fields:

- Trade in goods (GATT)
- Trade in services (GATS), and
- Intellectual property (TRIPS),

And at least two dimensions:

- Approximation of Albanian legislation to that of WTO,
- The Albanian concrete offer in each of the above fields.

Meanwhile, a fuller view on commitments should have included also *the commitments for transparency* and the commitments related to *multilateral agreements*.

2.1. Trade in goods

2.1.1. Approximation of Albanian legislation to that of WTO

With the membership in WTO, Albania is committed to approximate its legislation with that of WTO. The document containing the basic principles of trade in goods is the General Agreement on Trade and Tariffs (GATT). These principles are represented by four basic rules and a number of other general rules. The General Agreement on Trade and Tariffs is interpreted and completed, so it becomes operational through a series of other agreements related GATT⁴.

Every WTO member should adopt its legislation according to these agreements. The official promises to bring the country's legislation in line with WTO agreements are converted in concrete commitments that are monitored.

Albanian commitments to approximate the legislation with that of EU, may be summarised as follows⁵:

- Albania is committed that *all kinds of laws and rules, and tariffs, payment of taxes in goods trade will be in conformity with WTO agreement, since the membership moment*. The application will also be in conformity with WTO rules;
- In every case, *before the membership, Albania should make amendments* in the legislation related to (i) sanitary e phyto-sanitary measures, (ii) technical rules in trade, (iii) procedures of imports licensing⁶, with the purpose that its legislation be considered in conformity with WTO rules;
- Albania is committed to apply all WTO agreements, including that of sanitary e phytosanitary measures and technical rules in trade, *without a period of transition*;
- Albania is committed *not to apply antidumping, counterbalancing and security measures, without having completed the respective legislation* without bringing it in line with WTO;

⁴ See Annex 1: GATT: Basic principles and specific annexes.

⁵ For more details concerning concrete commitments, see Annex 2: Albanian commitments concerning foreign trade regime.

⁶ For more details concerning SPS, TBT, Imports Licensing Procedures, see: www.wto.org, WT/ACC/ALB/40/Rev.2: Changes in Albanian legislation to be in conformity with WTO agreements.

- In answering to the interest of the member countries, Albania is committed specifically to questions concerning *the customs assessment and the rules of origin*.

2.1.2. Offer for the goods trade

The offer for the goods trade is characterized by these features:

- The tariffs system is simple and is represented only by the tariff *ad valorem*. Alternative systems should contain fixed, specific, or combined, etc. tariffs;
- The tariff protection is moderate. The maximal compulsory tariff level is 20%. The initial structure is as follows:

| Tariff | Number of tariff lines, in % towards the total |
|---------------|---|
| 20% | 29 |
| 10% | 37 |
| 0-5% | 34 |

- About 80% of the compulsory tariffs have the same level with the current tariffs
- The logics of reducing to zero⁷ the products tariffs is related as a rule to:
 - Multilateral agreements and declarations, or products linked with them, like the ones with the Ministerial declaration on Trade of Technology and Information products, which says that the tariffs for these products should become zero between 1997 and 2000 with a constant reduction step, with the obligations from the membership in the Multilateral Civil Aviation Agreement,
 - Concessions for products materializing the least added value, in answer to the demand for concessions by member countries;
 - Reduction of tariffs for raw materials in order to promote local production.

The agriculture goods offer has these features:

- Lack of active programs for support through subsidies⁸;
 - De minimis value is 5%, whereas the aggregate measure of support (AMS) is zero;
 - The expenditures falling in the "green box"⁹ category are modest and are made of expenditures for research, training, extension, inspection and infrastructure services payments for the natural disasters, etc.;
- Absence of tariff quotes;
- The absence of preferential tariffs mainly because of Free Trade agreement absence at the moment of membership in WTO, u also because other preferential policies;

⁷ For the reduction manner according to the production years whose tariff goes to zero, see: Albania: Staging Matrix, integral part of goods Offer. In fact, reduction also follows this rule

⁸ For more details see www.wto.org; WT/ACC/SPEC/ALB/4/Rev.4

⁹ See Annex 3: Green box

- Absence of subsidies for exports, so also the absence of commitments to reduce this type of prohibited subsidies;
- Reduction of tariffs to zero, but also of reductions in general, according to two logics:
 - Respecting multilateral agreements obligations, for example, the case of the sector initiative for alcoholic drinks;
 - Concessions in response to the request for concessions by member states;
 - Import raw materials to stimulate the local production.

2.2. Trade in services

2.2.1. Approximation of Albanian legislation with WTO legislation

The General Agreement on Trade and Services (GATS) contains the basic principles of trade in services, such as the most favored nation *with exceptions, concessions in markets, granting the national treatment status, the demand for transparency*, to mention only some. GATS is interpreted and completed, so it becomes operational by a number of other agreements related to it, such as the personal physical movement, the financial, telecommunication, air and sea transport services¹⁰.

Commitments of Albania to approximate the legislation in the field of services may be considered in two levels:

- preparation of the legal framework for the creation of *inquiry points*, as one of the basic principles of trade in services, and
- the treatment of public companies and companies with special privileges and exclusivities in accordance with WTO rules¹¹.

2.2.2. Offer for services trade

The offer for services trade relies on the basic principles and it is influenced substantially by specific agreements.

The Albanian offer characteristics in the services market may be summarized as follows¹²:

- In principle Albania has accorded *the status of the most favored nation* for almost all kinds of services, with the exception of some transport and audiovisual services, for which it makes preferential treatment. The preferential treatment is conditioned by bilateral or multilateral agreements;
- Though *market access* is not an obligation, the parties make concessions. In the case of Albania, markets access may be considered as a rule. Limitations concerning the markets access have in their origin: (i) restrictions in physical persons movement, (ii) restrictions in capital exports, (iii) restrictions in telecommunications markets and (iv) other restrictions;

¹⁰ For more details, see Annex 5: GATS: Basic principles and Annexes for specific questions

¹¹ See Annex 2: Albanian commitments concerning foreign trade regime

¹² For more details, see: Annex 6: Offer for the services market

- According the status of the *national treatment*, may be also considered as a rule. Restrictions in the national treatment have in their origin (ii) restrictions in hospital and professional medical services, (iii) restrictions in legal services, (iv) restrictions in insurance services, (v) restrictions in cinema and theatre services.

2.3. Intellectual property

In the moment of membership, Albania was considered to be in accordance with the Agreement on Intellectual Property¹³.

Albania was committed to apply the Agreement on Intellectual Property with no transitional period.

2.4. Commitments for transparency

One of WTO six legal blocks is also that which is related to the obligation to make transparent the measures, policies and laws affecting the foreign trade. According to this legislation, this is achieved in two ways: (i) the governments should inform WTO and member countries on the measures, policies and special laws by regular notifications, and (ii) WTO undertakes regular reviews of member countries trade policies, or the ones called reviews of trade policies.

In the above context, Albania is committed to make the notifications required by each and every agreement that is part of WTO legal structure.

2.5. Multilateral agreements

With regard to the multilateral agreements, Albania has taken the following commitments:

- To start the negotiations for membership in **Government Procurement Agreement**, with the objective to become member by the end of 2000¹⁴;
- To apply the **Agreement on Civil Aviation Trade** and will be ready to sign it in the moment of membership. Civil airplanes import and their spare parts will be zero at the moment of membership.

3. For further attention

The survey on Albania's commitments to WTO aimed to give a very comprehensive commitments summary. Meanwhile, a number of questions and subjects require deeper and further following¹⁵ :

- **Deeper view of WTO agreements legal texts**

¹³ For more details on the legal framework and the efforts of Albania to conform to the Agreement on Intellectual Property, see www.wto.org, WT/ACC/ALB/25: Information on the economy and foreign trade regime: Compliance with TRIPS agreements

¹⁴ For more details on the compatibility of Albanian law on Public Procurement with WTO respective agreement, see www.wto.org, WT/ACC/ALB/42: Memorandum on Compliance with the Agreement on Government Procurement

¹⁵ The list should not be considered exhausted. In this sense, the qualified reader, according to the above questions logics, might add other questions to this list.

In the basic text but especially in the annexes, many legal references concerning WTO agreements are given. For example, one of the commitments is that Albania is committed to apply the Agreement on Intellectual Property without a transitional period. Respecting this commitment would require first of all to understand well what the Agreement on Intellectual Property is, which is the Albanian legislation related to it, how will it be guaranteed that this legislation be always in conformity with the Agreement and other questions like these;

– **Following the commitments made, especially is the approximation of the country's legislation to that of WTO**

From the above treatment in paragraph 2, it comes out that Albania has made commitments in two levels: (i) respecting all the multilateral agreements composing WTO, and (ii) make concrete concessions in goods and services markets. If there is sufficient attention for the respect of concessions in the markets, especially in goods markets, the attention for the services markets, and especially for the approximation of legislation and establishment of respective institutions is insufficient;

– **Guarantee of WTO agreements application**

In many cases Albania has made commitments not only to approximate the legislation with that of WTO but also to apply to consistently. The legislation consistent enforcement is problematic in many fields, like the customs assessment, technical rules, sanitary and phyto-sanitary measures, intellectual property, etc. For example, one of the fundamental requirements of Sanitary and Phyto-sanitary Agreement on Technical Rules is the guarantee of Transparency in the level of institutions related to these policies, and in the coordinating level, a single inquiry point. Legislation exists but is not applied!

– **Completion of legislation concerning fair trade measures**

Albania has made the commitment not to use the antidumping, counterbalancing and security measures without completing the national legislation and without bringing it in line with WTO agreements. In the conditions when the legislation in these fields is very incomplete (the legal framework on antidumping is incomplete, the legal framework on counterbalancing and security measures does not exist entirely), Albania which has accepted to respect the international trade rules of the game is in disadvantage compared to other countries that are using these measures successfully. Let us recall that in order to be effective, the liberalization has to be fair.

Concluding remark

Albania has witnessed that there are difficulties in respecting the commitments made WTO framework. It is clear that WTO continues to be still considered by the groups of interest as a 'hasty step'. Meanwhile, respect of Albania's commitments in this framework is a question of principal importance. In this context, there is a need to reason strategically about the terms used by WTO General Director, Supachai, in a speech held some time ago: According to him WTO is the open trade with game rules. Which is its alternative? Undoubtedly, this alternative is isolation, fragmentation, and insecurity.

Supposing that the government - the government - in Albania work with the objective of maximizing the social welfare; commitments to WTO go in that direction; we may advance by saying that the insufficient understanding of the positive effects of the open trade with game rules explains considerably the difficulty of keeping the commitments. According to this hypothesis, the explanation of WTO content and effects would help the groups of interest to consider WTO as a useful institution, and not as an untimely, harmful and imposed institution.

Annexes

Annex 1

GATT: Basic principles, specific Agreements and Annexes

GATT basic principles

The basic principles regulating goods trade are contained in General Agreement on trade and Tariffs (Trade in goods: GATT). With its membership in WTO, Albania is committed to respect GATT basic principles. These principles are represented by four basic rules a number of other general rules.

GATT four basic rules

- Tariffs;
- Tariffs fixing;
- Most Favored Nation Principle (MFN), and
- National Treatment Principle (NT).

Other general GATT rules

- Customs assessment;
- Inspection before loading;
- Technical rules and sanitary phyto - sanitary measures;
- Exports rules;
- Rules on subsidies;
- Rules on imports licensing;
- Rules on authorized measures for industries protection;
- Rules, measures related to investments affecting trade.

Agreements and annexes for specific products or questions

General Agreement on Trade and Tariffs is interpreted and completed, that is, it becomes operational by a series of other agreements.

These are the specific agreements:

- Customs Assessment Agreement;
- Agreement on Inspection before Loading;
- Technical Trade Barriers Agreement;
- Sanitary e Phyto - Sanitary Measures Agreement;
- Imports Licensing Procedures Agreement;
- Security Measures Agreement;
- Agreement on Subsidies and Counterbalancing Measures;
- Agreement on Antidumping and Counterbalancing Measures;
- Agreement on Investments Policies Affecting Trade(TRIMS);
- Textiles and Clothes;
- Agricultural Agreement;
- Agreement on Origin Rules.

Annex 2
Albanian commitments concerning foreign trade regime

| Commitment - with membership in WTO: | References¹⁶ |
|---|---|
| Albania will respect WTO rules concerning prices control . In the moment of membership, Albania controls the prices of medicaments, energy, water and transport. | Article III.9 of GATT ¹⁷ |
| Albania will conform to WTO obligations all the laws and rules, and tariffs, payments and taxes , related to goods trade. Application will also be in conformity with WTO rules. | Article VIII:1, XI:1 and III:2, 4 of GATT |
| Every import tariff and tax , except customs tariff and normal payments tariff for services made, will be in conformity with WTO rules. Albania will not set other payments in goods offer, that is, it commits to keep them zero. | Article II:1(b) of GATT |
| Albania will apply the excise taxes in complete conformity with WTO rules. | Article III of GATT |
| Albania will apply VAT rules in complete conformity with WTO rules. | Article III of GATT |
| Albania will conform to WTO rules concerning exports quantitative restrictions and other non tariff questions , such as licenses, quotes, prohibitions, and other restrictions having equivalent effect. In order to be conformed Albania should amend a series of laws, and secondary laws ¹⁸ . Payments balance measures will also be in conformity with WTO rules. | Article 12 of GATT; SPS (M); Understanding of GATT Rules on Payments Balance |
| Albania will confirm that it has publicized the instructions explaining when the customs authorities can require guarantee' . | Customs Assessment (M) |
| Albania will conform to customs assessment . In every case, the rules that are part of the international agreements will be superior to local legislation after membership in WTO | Article VII of GATT, Interpreting Note on Article VII, Media Carrier Assessment |
| Cinematography films transaction value will not include copyright and licenses tariffs. The Customs Code amendment and the relevant secondary legal framework is necessary to be in conformity with Customs assessment rules. | Customs Assessment (M) |
| Albania will totally conform to WTO rules on goods origin . In every case, from the membership moment, the customs will be obliged to give information on origin assessment, if this is required by the exporter, importer, or other justified people. | Origin Rules (M) |
| Albania will respect WTO rules concerning inspection before loading | Inspection before Loading (M) |
| Albania commits not to apply antidumping or counterbalancing measures before having compiled the respective legal framework in conformity with WTO rules. After completing the legal framework, Albania commits that application will also be | Article VI of GATT, Application of Article VI |

¹⁶ The economic and legal meaning of these commitments needs to be explained explicitly.

¹⁷ Read GATT 1994

¹⁸ Annex 4: Albanian commitments to approximate the legislation

| | |
|--|--|
| in conformity with WTO rules. | (M), Subsidies and Counterbalancing Measures (M) |
| Albania commits not to apply security measures before having compiled the respective legal framework in conformity with WTO rules. After completing the legal framework, Albania commits that application will also be in conformity with WTO rules. | Article XIX of GATT, Agreement on Security Measures |
| Albania commits that exports restrictions will also be in conformity with WTO rules. Albania has removed the prohibition of exports remaining products. | Articles XI, XVII, XX and XXI of GATT |
| Albania will not keep and reapply exports prohibited subsidies, in the sense of article 3, Subsidies and Counterbalancing Measures Agreement. | Subsidies and Counterbalancing Measures (M) |
| Government programs on subsidies will be administered by Subsidies and Counterbalancing Measures Agreement and every information that can be notified, will be notified. | Subsidies and Counterbalancing Measures (M) |
| Albania commits to apply the Agreement on Technical Trade Rules with no transition period. ¹⁹ | Technical Trade Rules (M) |
| Albania commits to apply the Agreement on Sanitary and Phyto - Sanitary Measures with no transition period. ²⁰ | Sanitary and Phyto - Sanitary Measures (M) |
| Albania commits to apply the Agreement on Investments Measures Related to Trade with no transition period. ²¹ | Investments Measures Related to Trade (TRIMS) |
| Public companies and companies with special privileges or exclusivity will be treated in conformity with WTO rules. | Article XVII of GATT and Meaning of Article VIII of GATS |
| Albania commits to respect WTO rules concerning free zones management | |

¹⁹ Annex 4: Albanian commitments to approximate the legislation

²⁰ Annex 4: Albanian commitments to approximate the legislation

²¹ Annex 4: Albanian commitments to approximate the legislation

Annex 3
Green Box

List of government subsidies for producers exempted from commitments for reduction
Agriculture Agreement, Annex 2

The following subsidies are exempt from reduction commitments, if the specific conditions mentioned in the agreement are fulfilled:

- The government expenditures for the agricultural research, control of harmers, inspection and standardization of f specific products, marketing and promotion services;
- Government participation in incomes guarantee programs, and minimal incomes programs;
- Payments for natural disasters;
- Assistance for the structural adaptation, through:
 - Producers adaptation (conversion) programs which aim to facilitate the adaptation of people committed to marketable agricultural products;
 - Adaptation programs which aim to move from the agricultural production the land and other resources, including also livestock;
 - Financial aid that aims to assist the financial and physical restructuring of producers operations;
- Payments for environment protection programs;
- Payments for regional assistance programs.

Annex 4

Commitments for approximation of legislation related to GATT specific Agreements

| Agreement, or annex | Commitment | Commitment content | Time |
|---|---|--|--------|
| 1. Customs Assessment (M) | Albania is in conformity with Customs Assessment Agreement | None | |
| 2. Inspection before Loading (M) | Inspection before Loading is covered by Customs Code | None | |
| 3. Technical Trade Barriers | VKM No. 372, date 04.08.1999, "Information exchange on standards and technical rules" and VKM No. 323, date 08.07.1999, "Preparation, adoption and application of procedures for the assessment and conformity with technical rules and standards". | To become compatible with Technical Trade Barriers Agreement | |
| | Draft VKM "On delivering legal and secondary legal acts related to trade" | To guarantee that the legal and secondary legal acts be delivered to 'Enquiry point' to be notified in advance to WTO | |
| 4. Sanitary and Phyto - Sanitary Measures (M) | Decision of the Council of Ministers (VKM) No. 371, date 04.08.1999, "Criteria and competencies in the field of standardization, certification and accrediting" and VKM No 372, date 04.08.1999, "Exchange of information on standards and technical rules", and VKM No 242, date 28.08.1999, "Approval of good practices for the standards adoption and application" | To become compatible with Sanitary and Phyto - Sanitary Measures Agreement | |
| | Draft Order of the Prime Minister, VKM "On delivering legal and secondary legal acts related to trade" and Order of the Prime Minister No 55, date 24.08.1999, "Instructions on the preliminary notification of legal and secondary legal acts related to Sanitary and Phyto - Sanitary Measures" | None | See 19 |
| | Law "On some changes by Law No 7643, 'On state sanitary inspectorate", Law "On some changes on 'Law on Food' and Law "On some changes in Law No 7491, date 31.05.1995 'On Albanian veterinary service', Law "On some changes in Law No 7659, date 12.01.1993, 'On Seeds and Saplings' and VKM, "On some changes in VKM on Pesticides, No 584, date 06.12.1993" | To become compatible with the transparency and inalterability clauses in with Sanitary and Phyto - Sanitary Measures Agreement | See 19 |
| 5. Imports licensing procedures (M) | Law No 7659, date 12.01.1993, "On Seeds and Saplings", Law No 7674, date 23.02.1993, "On Albanian veterinary service", Law No 7662, date 23.02.1993, "On plants protection service", and | The amendments in the respective laws aim to facilitate imports procedures. | See 19 |

| | | | |
|--|--|--|-------|
| | Minister's Order No 55, date 24.08.1999, "Instructions on Imports Licensing" | Amendment in the ministers law is necessary to make it compatible with Imports Licensing Agreement | |
| 6. Security Measures (M) | Law on counterbalancing measures has been suspended | In case of preparation it should be in conformity with Security Measures Agreement | |
| 7. Subsidies and Counterbalancing Measures (M) | Law on counterbalancing measures has been suspended | In case of preparation it should be in conformity with Counterbalancing Measures Agreement | |
| 8. Antidumping (M) | Completing the secondary legislation framework for the antidumping law and antidumping directorate functioning | The secondary legislation should be in line with Antidumping Agreement | En 19 |
| 9. Investments Policies related to Trade (M) | There are no commitments for the membership moment | There are no commitments for the membership moment | |
| 10. Textiles and Clothes (M) | There are no commitments for the membership moment | There are no commitments for the membership moment | |
| 11. Agriculture (M) | Albania is in conformity with Agreement on Agriculture | There are no commitments for the membership moment | |
| 12. Origin Rules (M) | VKM No 205, date 13.04.1999, "On Customs Code applying provisions" | To become compatible with the Origin Rules Agreement | |

Aneks 5

GATS: Parimet baze dhe Anekse per ceshtje specifike

Parimet baze

Rregulla baze per GATS

- Te gjitha llojet e sherbimeve mbulohen nga GATS
- Parimi i MFN eshte i vlefshem per te gjitha llojet e sherbimeve, me perjashtim te perjashtimeve eksplicite
- Hapja e tregjeve Trajtimi Kombetar nuk jane detyrime te pergjitheshme, por vendet marrin angazhime
 - * Angazhimet individuale te cdo vendi negociohen dhe pastaj jane te detyrueshme (bound)
 - * Liberalizim progresiv permes negociatash
 - * Parimi i NT aplikohet ne fushat ku jane marre angazhime
- Transparenca ne legjislacion eshte e kerkuar: inquiry points
- Legjislacioni vendas (ne kuptimin e gjere) duhet te jete objektiv dhe i aresyeshem
- Pagesat nderkombetare jane normalisht te pakufizuara

Anekse per ceshtje specifike

Marreveshja e GATS ka identifikuar edhe peshe fusha specifike – qe jane organizuar ne pese anekset e sherbimeve - per te cilat liberalizimi i tregut duhet te behet me kujdes. Keto fusha jane levizja e personave fizike, sherbimet financiare, telekomunikacioni, transporeti ajror dhe transporti detar.

Anekset e sherbimeve

- **Levizja e personave fizike**
Aneksi i lejon vendet te negociojne angazhime specifike mbi levizjen e personave fizike qe ofrojne sherbime. Nderkaq, marreveshja nuk aplikohet per masat qe lidhen me punesimin, shtetesine, qendrimin ose punesimin permanent.
- **Sherbimet financiare**
Aneksi mbi sherbimet financiare (pergjithesisht bankat dhe sigurimet) u njeh paleve te drejten te marrin masa kujdesi te tilla si mbrojtjen e investitoreve, depozituesve te parave, si dhe sigurimin e stabilitetit te sistemit financiar.
- **Telekomunikacioni**
Aneksi lidhet me telekomunikacionin publik. Kushtet qe lidhen me perdorimin e rrjeteve te telekomunikacionit public duhet te jene te tilla qe ofruesit e huaj te sherbimit te mund ta kene te drejte vetem nese ata lejohen ta bejne kete permes nje angazhimi specifik Nderkaq, kufizimet nuk duhet te jene me te medha se sa eshte e nevojshme per te mbrojtur pergjegjesine publike te operatorit lidhur me sherbimin public dhe integritetin teknik te rrjetit.
- **Transporti ajror**
Aneksi njeh vec te tjerash te drejten e trajtimit preferencial, pra devijimin nga parimi i MFN
- **Transporti detar**
Aneksi njeh te drejten e trajtimit preferencial, pra devijimin nga parimi i MFN. Nderkaq, aneksi njeh edhe obligimin e sherbimeve te detyrueshme ne porte

Ne fakt, jane keto pese fusha qe – ne masen me te madhe - i japin forme nagazhimeve specifike shqiptare

Aneks 6

Oferta per tregun e sherbimeve

Parimi i Kombit me te Favorizuar (MFN)

Ne parim, Shqiperia zbaton parimin MFN, pra parimin e trajtimit jodiskriminues, me te gjithë vendet antare te WTO-se, per pothuaj gjithë gamen e sherbimeve. Bejne perjashtim nga parimi MFN vetem dy grupe sherbimesh²², per te cilat behet trajtim preferencial.

- Sherbimet e transportit
Rrugor te pasagjereve dhe ngarkesave;
Ajror, te lidhura me marketingun, shitjen e rezervimin kompjuterik;
- Sherbimet audio-vizuale
 Prodhimi, shperndarja dhe transmetimi i veprave audio-vizive
 Prodhimi dhe shperndarja e emisioneve televizive dhe veprave kinematografike

Si rregull, nje trajtim i tille preferencial, ose njohja e trajtimit kombetar per disa partnere tregtare dhe jo per te tjeret, lidhet me promovimin e vlerave kulturore (rasti i pergjithshem: vlerave europiane). Arritja e objektivave liguistike eshte nje motivimi per trajtimin preferencial. Qe te perfitohet nga trajtimi preferencial, perkatesia ne te njejtat institucione, ose marreveshjet bilaterale jane te domosdoshme.

Hapja e tregjeve te sherbimeve dhe Trajtimi Kombetar (NT)

Ne baze te marreveshjes se GATS, koncensionet ne tregje dhe trajtimi kombetar nuk jane detyrime te pergjithshme. Por, pritet qe palet te marrin angazhime per te hapur *gradualisht* tregjet dhe per te akorduar *gradualisht* trajtim kombetar ofruesve te sherbimeve ne origjine nga vendet antare te WTO-se.

Spjegime per oferten e sherbimeve

Kufizimet jane:

- H) Horizontale, qe do te thote kufizime me karakter te pergjithshem
- S) Specifike, qe prekin kategori specifike sherbimesh

Menyrat e ofrimit te sherbimeve jane:

- | | |
|-------------------------------------|---|
| 1) Oferte permes kalimit te kufirit | Shembull: Ndertimi i rruges Librazh-Qukes nga firma maqedone |
| 2) Konsum jashte shtetit | Shembull: Depozitimi i parave te nje firme shqiptare ne nje banke ne Zvicer |
| 3) Prezenca tregtare | Shembull: Sherbimi i telefonise mobile nga VODAPHONE |
| 4) Prezenca personash fizike. | Shembull: I punesuari i nje firme te huaj sherbimesh te paregjistruar ne Shqiperi |

Megjithese koncensionet ne tregje dhe trajtimi kombetar nuk jane detyrime te pergjithshme, nisur nga fakti qe rastet e koncensioneve ne tregje dhe ato te akordimit te trajtimit kombetar per Shqiperine jane rast i zakonshem, per aresye praktike, ne kemi konsideruar vetem rastet e kufizimeve. Kjo do te thote se tregjet e sherbimeve konsiderohen te hapura, me perjashtim te

²² Shih: www.wto.org, WT/ACC/ALB/51/Add.2, Schedule GATS-Albania

kufizimeve eksplicite, dhe se trajtimi kombetar eshte automatik, me perjashtim te kufizimeve eksplicite. Ne parim, e anasjellta eshte e vertete.

Kufizime lidhur me hapjen e tregjeve te sherbimeve

Kufizimet lidhur me aksesin ne tregje, mund te ndahen ne kater grupe kryesore²³: (i) kufizime ne levizjen e personave fizike, (ii) kufizime ne levizjen e kapitaleve dhe ne sherbimet financiare, (iii) kufizime ne sherbimet e telekomunikacioneve, dhe (iv) kufizime te tjera.

– Kufizime ne levizjen e personave fizike

Keto kufizime jane te natyres horizontale (H), dhe si te tilla, ato prekin te gjitha kategorite specifike te sherbimeve, qe lidhen me tipi 4)²⁴ te ofrimit te sherbimeve. Formulimi ne kete rast, duhet kuptuar ne kete menyre: Shqiperia ka kufizime lidhur me levizjen e personave fizike. Nderkaq, ajo ka bere keto koncensione: lejon qendrimin ne Shqiperi (i) deri 5 vjete per personelin e larte menaxherial; (ii) 6 muaj ne cdo 12 muaj, per te punesuarit dhe shitesit e sherbimeve, dhe (iii) 3 muaj ne cdo 12 muaj, per persona te mandatuar per te ngritur nje firme ne Shqiperi.

– Kufizime ne levizjen e kapitaleve dhe ne sherbimet financiare

*** Kufizime ne levizjen e kapitaleve**

Banka e Shqiperise ka te drejten e kontrollit mbi eksportin e kapitaleve deri ne vitin 2010. Ky kufizim eshte i natyres H) dhe prek disa nga kategorite e sherbimeve specifike te sektorit bankar, te tipit 2): konsum jashte shtetit. P.sh., depozitimi i parave te nje firme shqiptare ne nje banke ne Zvicer nuk eshte i lejuar automatikisht.

Shtetasit shqiptare dhe ata te huaj jane te detyruar te marrin autorizim me shkrim ne rastin e eksportit te kapitalit, nese ky i fundit nuk bie ne nje nga kategorite e meposhtme: (i) kapitali i eksportuar eshte i barabarte me kapitalin e importuar plus fitimet, per shtetasit e huaj, dhe (ii) kapitali i eksportuar eshte i barabarte me kapitalin ne pronesi te shtetsit shqiptar, nese ky i fundit largohet perfundimisht nga vendi.

*** Kufizime ne sherbimet financiare**

Per shkak te kufizimeve ne levizjen e kapitalit, Shqiperia ka vendosur – jo ne menyre direkte, por si pasoje e ketyre kufizimeve – kufizime te rendesishme per nje numer sherbimesh financiare te tipit pranim depozitash, lizing financiar, sherbime te transfertave te parave, sherbime te garancive, etj. Ne parim, keto kufizime jane te tipit 1): Oferte permes kalimit te kufirit, pervecse te tipit 2: konsum jashte shtetit, sic eshte permendur me lart.

Ne nivelin e sherbimeve financiare, kufizime jo te tepruara ekzistojne edhe per sa i perket disa funksioneve qe tani per tani jane monopol i Bankes se Shqiperise, te tilla si: sherbimet e settlement and clearing.

– Kufizime ne sherbimet e telekomunikacioneve

²³ Shih: www.wto.org, WT/ACC/ALB/51/Add.2, Schedule GATS-Albania

²⁴ Shih: Spjegime per oferten e sherbimeve, ne kete aneks

Kompania shqiptare e telefonies fikse, Albtelecom, ka ekskluzivitet ne kete treg, deri ne 1 janar 2003²⁵. Ky kufizim ne tregun e telefonise fikse, reflektohet ne nje numer kufizimesh te tjera te tipit 1): oferte permes kalimit te kufirit ne zonat urbane, psh, Francetelecom e ka te pamundur organizoje sherbimin e telefonise publike ne Shqiperi, dhe te tipit 3) prezence tregtare, psh, ajo nuk eshte e lejuar te hyje ne Shqiperi deri ne vitin 2003.

– Kufizime te tjera

Perveç kufizimeve te mesiperme, te organizuara sipas anekseve te sherbimeve, nga skeduli i angazhimeve mund te dallohen disa kufizime te tjera te rendesishme:

* Kufizime ne sherbimet ligjore

Sherbimet e avokatise dhe noterise ne Shqiperi mund te kryhen vetem nga juriste me shtetesi shqiptare. Kjo reflektohet ne kufizime te tipit 1), 3), dhe 4)

* Kufizime ne sherbimet mjeksore dhe te tjera sherbime qe lidhen me sigurine e jetes

Shqiperia nuk eshte e angazhuar te pranoje ne menyre automatike sherbimet mjekesore te klinikave te huaja. Personeli i sherbimeve mjeksore duhet te licensohet ne Shqiperi. Ne keto kushte, kufizmi reflektohet si kufizim i tipi 1). E njejta gje mund te thuhet edhe per sherbime te tjera qe lidhen me sigurine e jetes.

* Kufizime ne sherbimet e argetimit, kulturore dhe sportive

Kufizimet prekin sherbimet e kinemase dhe teatrit, tipi 1): oferte permes kufirit, si dhe arkivimit, tipi 1): oferte permes kufirit dhe 2): konsum jashte shtetit

Kufizime lidhur me trajtimin kombetar

Kufizimet ne trajtimin kombetar, mund te ndahen ne 6 grupe: (i) kufizime ne tregun e tokes jo bujqesore, (ii) kufizime ne sherbimet spitalore e mjeksore profesionale, (iii) kufizime ne sherbimet ligjore, (iv) kufizime ne sherbimin e sigurimeve, dhe (v) kufizime ne sherbimet e kinemase dhe teatrit

– Kufizime ne tregun e tokes jo bujqesore

Personat fizike ose juridike te huaj qe ofrojne, ose kane ndermend te ofrojne sherbime, ne Shqiperi kane te drejte te marrin me qera, ose te blejne toke jo bujqesore²⁶. Blerja e tokes jo-bujqesore nga te huajt eshte e mundur vetem nese vlere e investimit eshte tri here me e madhe se vlere e tokes jo bujqesore.

– Kufizime ne sherbimet spitalore e profesionale mjeksore

Kufizimet ne kete kategori sherbimesh jane te tipit 3): prezence tregtare dhe 1): oferte permes kufirit. Kufizimi i tipit 3) duhet interpretuar ne kete menyre: kompanite gezojne trajtim kombetar, por licensimi duhet bere ne kooperim me nje profesionist shqiptar. Kufizimi 1) duhet interpretuar qe Shqiperia ka te drejten e diskrimimit mes personelit mjeksor shqiptar dhe te huaj.

– Kufizime ne sherbimet ligjore

²⁵ Ky ekskluzivitet eshte shtyre deri me 1 janar 2005

²⁶ Shitja e tokes bujqesore te huajve eshte e ndaluar

Sic eshte permendur edhe me pare, vetem shtetasit shqiptare kane te drejten per te ushtruar profesionin e avokatit dhe noterit, ne kuptimin e njohjes nga sistemi shqiptar i drejtesise

– Kufizime ne sherbimin e sigurimeve

Kufizimi ne sherbimin e sigurimeve eshte pergjithsisht i tipit 3): prezence tregtare, por edhe i tipit 1) dhe 2).

Kufizimi i tipit 3) duhet te interpretohet ne kete menyre: i vetmi diskriminim mes kompanive te huaja dhe atyre shqiptare lidhet me eksperiencen. Kompanite e huaja lejohet te vendosen ne Shqiperi me kushtin qe ato te kene te pakten 5 vjete aktivitet ne vendin e origjines. Mbas kesaj, trajtimi eshte i barabarte.

Kufizimi i tipit 2): konsume jashte shtetit, do te thote se sigurimi i bere jashte shtetit eshte i vlefshem (?) per Shqiperine vetem pas 1 janarit 2003

– Kufizime ne sherbimet e kinemase dhe teatrit

Kufizimi ne kete rast merr formen e tipit 1) dhe 3). Kufizimi i tipit 1) eshte konsistent me mosnjohjen e ofrimit ne Shqiperi te sherbimit te kinemase dhe teatrit nga kompani te huaja. Kufizimi i tipit 3) lidhet me mosperfitimin e subvencioneve nga kompanite e huaja te vendosura ne Shqiperi.

Angazhime shtese

Ne skedulin e sherbimeve, pala shqiptare ka marre edhe keto angazhime shtese:

– Ne sherbimet e telekomunikacioneve

Shqiperia do te marre pjese active ne raundet e ardhshme te negociatave me objektivin e thellimit te angazhimeve te saj ne sherbimet e telekomunikacioneve. Me tej, Shqiperia eshte angazhuar te publikoje rregullat dhe politiken rregullatore lidhur me konkurrencen ne fushen e telekomunikacioneve baze.

– Ne sherbimet financiare

Shqiperia do te hape gradualisht tregun per kompanite e huaja mbi bazen e parimit te trajtimit kombetar, me kushtin qe (i) te jete pergatitur legjislacioni regulator lidhur me masat e kujdesit, ose (ii) ne rast se sherbime te tilla jane cfaqur ne treg permes privatizimit

– Sherbimet portuale

Shqiperia angazhohet te veje ne dispozicion te kompanive te huaja nje sere sherbimesh portuale mbi baze jo diskriminuese

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